EDITOR'S NOTE

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No. 02-9065 (3)

IN THE SUPREME COURT OF THE UNITED STATES

SHAKUR MUHAMMAD,
PETITIONER,

V.

MARK CLOSE,
RESPONDENT.

RECE
MAY 28 2003

ON PETITION FOR WRIT OF CERTIORARI
to the United States Courts Of Appeals for the Sixth Circuit

PETITIONER'S REPLY BRIEF
to RESPONDENTS BRIEF IN OPPOSITION

SHAKUR MUHAMMAD
IN PRO SE
ICF # 213302
1576 BLUEWATER HWY.
IONIA, MICHIGAN
48846

6 pp

REASONS TO GRANT PETITION FOR CERTIORARI

Now comes PETITIONER in the above-entitled and submits his Reply Brief pursuant to this Court's Rule 15 (5).

PETITIONER RELIES ON the facts as stated in his Statement of the Case portion of his Writ of Certiorari to dispute MISREPRESENTATIONS set forth in RESPONDENTS Statement of the Case, and REPLIES as follows to RESPONDENTS contentions.

I. THE COURT OF APPEALS DID NOT RELY UPON THE RELIEF SOUGHT IN PETITIONER'S AMENDED COMPLAINT AND DID NOT PROPERLY APPLY THE HECK DOCTRINE IN THIS CASE

RESPONDENTS CONCEDE in their Brief that the Court of Appeals ERRED in REFERRING to the RELIEF sought in PETITIONER'S original complaint instead of the RELIEF sought in his amended complaint, and that there is a disagreement ~~exist~~ in the circuits after this Court's holding in SPENCER V. KEMNA, 523 US 1 (1998) IN REGARDS to the application of the HECK [V. HUMPHREY, 512 US 477 (1994), AS APPLIED TO PRISONER CASES IN EDWARDS V. BALISOK, 520 US 641 (1997)] doctrine.

PETITIONER BRIEFLY ADDRESSES RESPONDENTS MISREPRESENTATION of the RECORD and the UNTIMELY ASSERTIONS of "alternative grounds" for PURPOSES of SUMMARY DISPOSITION at this STAGE in the PROCEEDINGS. HOWEVER, PETITIONER MAINTAINS that RESPONDENTS obvious ACKNOWLEDGMENT of the MERITS of QUESTIONS PRESENTED in his WRIT for CERTIORARI is ENOUGH for this Court to conclude that its GUIDANCE is WARRANTED in this MATTER.

PUBLISHER'S NOTE:

Page(s) 2 missing in original.

The Court of Appeals failed to make any Ruling Regarding the district courts grant of summary judgment to Respondents on the basis of the third prong of the Sixth Circuits First Amendment Retaliation analysis not being met in accordance with Thaddeus-X v. Blatter, 175 F.3d 378, 394, (CA 6 1999).

The third prong of Thaddeus-X's analysis requires "a causal connection between elements one and two - that is, the adverse action was motivated at least in part by the plaintiffs protected conduct. Id. at 394.

The causation requirement, specifically the "temporal proximity" element was addressed earlier in this case in the district courts Mar. 26th, 1999 decision Regarding the lapse of time between prior lawsuits/grievances and the current incident giving rise to this cas SEE Respondents Appendix at pp. 43a-44a of the Dist. Courts Order Adopting Mag.'s R and R. (Note that page 9 of the Order was omitted by Respondents.) The district court found that "the "lengthy period of time" discussion in Benson v. Cady, 761 F.2d 335, 342 (7th Cir. 1985) ... does not prevent the finding that a genuine issue of material fact exists in the instant case sufficient to prevent summary judgment." SEE Respondents Appendix at p. 44a.

Because of the contradictions in the district court's Rulings, Petitioner asserts that the "temporal proximity" element of Thaddeus-X must be scrutinized thoroughly and ~~as~~ argued this on Appeal. However, the court of appeals failed to address this issue in its Order of Sept. 23rd, 2002. SEE Respondents Appendix at pp. 72a-73a.

As stated above, Respondents have conceded that the Heck issue is in conflict in the circuits after Spencer requiring clarification by this Court. However, Respondents contend that this isn't the

case warranting the Resolution of these issues because Petitioner's presented question Regarding the district court's grant of summary judgment would burdensome and time consuming for this Court.

Petitioner Maintains that Respondents contentions are self serving and without merit in light of the foregoing issues Regarding the "temporal proximity" element of his First Amendment Retaliation claim Also because of the conflict on this issue in the district courts and the first that Relied has not been had in the appeals court.

Respondents further claimed that the district court decided this case without giving consideration to the Heck issue. However, the district court adopted the R and R of the Magistrate which extensively addressed the Heck issue in light of Spencer. SEE Respondents Appendix at pp. 36a-37a, dist. Courts Order and pp. 23a-29a of Mag.'s R and R, Respectively.

Petitioner Maintains that the issues of this case are deserving of this Courts scrutiny.

Conclusion

The Petition for a Writ of Certiorari should be GRANTED.

May 19th, 2003

Respectfully,
Shakur Muhammad
ICF # 213302
1576 Bluewater Hwy.
Ionia, Michigan
48846

William K. Suter
Clerk of the Court
Supreme Court of United States
1 First Street, NE.
Washington, D.C.
20543

May 19th, 2003

Dear Clerk,

Re: Muhammad v. Close,
U.S. Supreme Court No. 02-9065

Please find enclosed for filing the Reply Brief of Petitioner with proof of service thereof. Thank you.

Kind Regards,
Shakur Muhammad
IN PRO SE
ICF # 213302
1576 Bluewater Hwy.
Ionia, Michigan
48846

MAY 28 2003

Enclosed
cc: Thomas L. Casey

No. 02-9065

IN THE SUPREME COURT OF THE UNITED STATES

SHAKUR MUHAMMAD,
Petitioner,
v.
Mark Close,
Respondent.

MAY 28 2003

Proof Of Service

The undersigned certifies that a copy of Petitioner's Reply Brief has been served upon counsel for Respondent at his business address by U.S. Mail, postage paid at Ionia Michigan on May 19th, 2003. Counsel for Respondent is:

Thomas L. Casey
Solicitor General
P.O. Box 30212
Lansing, Mi. 48909.

Undersigned declares under penalty of perjury that the foregoing is true and accurate.

Respectfully,
Shakur Muhammad
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1576 Bluewater Hwy.
Ionia, Michigan
48846

Enclosure
cc: Thomas L. Casey